

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #9-09

Harding Township, Morris County

WHEREAS, Harding Township, Morris County, petitioned the Council on Affordable Housing (COAH) on December 30, 2008 for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Harding Township published notice of its petition on February 12, 2009 in the *Star Ledger*, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended March 30, 2009; and

WHEREAS, Harding Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 118 units, consisting of a 0-unit rehabilitation share, 83-unit prior round obligation and a 35-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan; and

WHEREAS, Harding Township has a rehabilitation share of 0 units; and

WHEREAS, the Township proposes to address its 83-unit prior round obligation with 21 post-1986 credits and 21 rental bonuses for a municipally sponsored project, The Farm at Harding, and 41 credits for a 43-unit Regional Contribution Agreement with the City of Orange Township; and

WHEREAS, Harding proposes to address its 35-unit projected growth share obligation with five credits and 1.25 rental bonuses for a five-bedroom supportive and special needs facility operated by the Universal Institute; three credits and three bonuses for three units at the Farm at Harding; two credits for the RCA with the City of Orange Township; two proposed additional units and two rental bonuses at the Farm at Harding; six bedrooms and 1.5 rental bonuses for a proposed group home to be sponsored by NewBridge Services, Inc.; and a 10-unit accessory apartment program; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Harding has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7; and

WHEREAS, Harding Township requested a waiver from N.J.A.C. 5:97-8.8 (30% affordability assistance requirement), requiring that at least 30 percent of development fees shall be used to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income); and

WHEREAS, a Task Force was held to consider the Township's waiver request on April 29, 2009, and the Task Force recommended granting the requested waiver; and

WHEREAS, the Council at its meeting on May 14, 2009, granted the waiver of N.J.A.C. 5:97-8.8 based on the Task Force recommendation (Exhibit A); and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on May 11, 2009, COAH issued a Compliance Report (attached as Exhibit B and incorporated by reference herein) recommending approval of Harding Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Harding Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that the Council granted Harding Township a waiver from N.J.A.C. 5:97-8.8 (30% affordability assistance requirement) at its May 14, 2009 meeting; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive

certification to Harding Township; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Harding Township shall, within 45 days of this grant of substantive certification, adopt all implementing fair share ordinances, enter into a contract with an administrative agent for the accessory apartment program, and submit to COAH an operating manual and adopted affirmative marketing plan for the proposed accessory apartment program; and

BE IT FURTHER RESOLVED that if Harding Township fails to adopt its fair share ordinances or submit the operating manual and adopted affirmative marketing plan for the accessory apartment program in a timely manner, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Harding shall submit all fair share ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Harding shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Harding's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Harding's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Harding and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Harding shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Harding's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Harding Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on May 14, 2009

A handwritten signature in black ink, reading "Reneé Reiss". The signature is written in a cursive, flowing style with a large initial "R".

Reneé Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report
April 27, 2009***



Municipality: *Harding Township*
County: *Morris*
COAH Region: *2*
Planning Area: *5*
Special Resource Area: *Highlands*
Housing Element and Fair Share Plan Adopted: *November 17, 2008*
Petition for 3rd Round Substantive Certification: *December 30, 2008*
Completeness Determination: *February 5, 2009*
Date of Publication: *February 12, 2009*

Objections Received: *None*

Petition Includes:

VLA: *No*

GPA: *No*

Waiver: *Yes*

Section: N.J.A.C. 5:97-8.8

Date of Site Visit: *May 7, 2009*

History of Approvals:

	COAH	JOC	N/A
First Round:	<i>---</i>	<i>---</i>	<i>---</i>
Second Round:	<i>11/6/96</i>	<i>---</i>	<i>---</i>
Extended Certification:	<i>2/9/05</i>	<i>---</i>	<i>---</i>

Plan Preparer: *Susan C. Kimball, P.P, Kimball & Kimball*

Municipal Housing Liaison: *Cynthia Phillips*

Recommendation: *Grant Substantive Certification*

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	0
Prior Round Obligation	83
Projected Growth Share Obligation (Net)	35

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
104	21	144	9	30 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 0 units				
Credits	Post-April 1, 2000	---		N/A
Program(s)	N/A		---	N/A
Rehabilitation Subtotal				0
NEW CONSTRUCTION:				
Prior Round: 83 units				
Credits	Post-1986	21		21
	RCA	41		41
Proposed Mechanism(s)	N/A		N/A	---
Prior Round Bonus(es)	Rental	21		21
Prior Round Subtotal				83
Growth Share: 35 units				
Credits	Post-1986	10		10
Proposed Mechanism(s)	Municipally Sponsored		2	2
	Supportive/Special Needs Housing		6	6
	Accessory Apartment		10	10
Growth Share Bonus(es)	Rental	7.75		7.75
Growth Share Subtotal				36
Surplus/Shortfall				+1

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4 therefore, the actual growth share may vary.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Harding Township's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Harding Township has a rehabilitation share of 0 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Harding Township has a prior round obligation of 83 units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of

N.J.A.C. 5:97, Harding Township has a residential projection of 169 units and a non-residential projection of 98 jobs, which results in an initial projected growth share obligation of 40 affordable units. However, after subtracting the allowable exclusions itemized in Worksheet A (attached as Appendix A), Harding Township's residential projection is reduced to 145 units. Therefore, Harding Township's total projected growth share for the period 1999-2018 is 35 affordable units consisting of a 29-unit projected residential growth share and a 6.1-unit projected non-residential growth share.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	0
Prior Round Obligation	83
Projected Growth Share Obligation (Net)	35

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Harding Township's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Harding Township's Housing Element and Fair Share Plan does not include a request for rehabilitation credit.

² Pursuant to N.J.A.C. 5:97-2.2(d), Harding Township's residential projection of 145 (after exclusions) is divided by 5 to yield 29 units and the nonresidential projection of 98 jobs is divided by 16 to yield 6.1 units. Harding's total projected growth share is therefore 35.1 or 35 units (29 + 6.1).

Proposed Rehabilitation Program(s)

Harding Township's rehabilitation share is 0; therefore, the township is not proposing any rehabilitation programs.

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Harding Township is addressing the prior round obligation with 62 post-1986 credits and 21 rental bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
The Farm at Harding	2006	Family Rental	21	Rental	21	42
RCA with City of Orange Township	1996	Scattered Site Rehab and Family Rental	41	-	-	41
TOTALS			62		21	83

Proposed Affordable Housing Mechanisms

Harding Township is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its prior round obligation.

Prior Round Obligation Parameters

Harding Township has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 21 Units

Development/Project Name	Type of Affordable Unit	# Units
The Farm at Harding	Family Rental	21
TOTAL		21

Prior Round Age-Restricted Maximum⁴ : 10 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	---	---
TOTAL		---

Regional Contribution Agreement (RCA) Maximum⁵: 41 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
City of Orange Township	Scattered Site Rehab and Family Rental	41
TOTAL		41

Prior Round Rental Bonus Maximum⁶ : 21 Units

Development/Project Name	Type of Bonus	# Bonuses
The Farm at Harding	Rental	21
TOTAL		21

³ Rental Obligation: .25 (Prior Round Obligation) or .25(83)= 20.8 → 21 units N.J.A.C. 5:97-3.10(b)1

⁴ Age-Restricted Maximum: .25(Prior Round Obligation - Transferred or Proposed RCA Units Addressing the Prior Round Obligation) or .25(83-41)→.25(42)= 10.5 or 10 units N.J.A.C. 5:97-3.10(c)1

⁵ RCA Maximum: .5 (Prior Round Obligation) or .5(83)=41.5 → or 41 units N.J.A.C. 5:97-3.10(d)1;

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation or 21 units N.J.A.C. 5:97-3.5

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Harding Township is addressing 14 units of the projected growth share obligation with 10 units of credit and 4.25 bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
The Farm at Harding	2006	Family Rental	3	Rental	3	6
RCA with City of Orange Township	1996	Scattered Site Rehab and Rental	2	---	---	2
Universal Institute	2001	Specials Needs Housing	5	Rental	1.25	6.25
TOTALS			10		4.25	14

Proposed Affordable Housing Mechanisms

Harding Township proposes to address the remaining 21-unit growth share obligation through the following mechanisms:

Municipally Sponsored Project-The Farm at Harding

The Township proposes to construct two new family rental units on the site of an existing 24-unit municipally-sponsored affordable housing project, The Farm at Harding. Harding Township owns the site (Block 2, Lot 16), which is about 8 acres in size, is located at the intersection of Kitchell Road and Woodland Avenue, and has been zoned AH, Affordable Housing since 1996. Adjacent land uses include parkland, open space, and multifamily housing in adjacent Morris Township. The proposed expansion would

be consistent with the density, coverage, and bulk standards of the AH Zone and would not encroach on any environmentally constrained areas within the site. According to the original project engineer and architect, the site can accommodate at least two additional units. One two-bedroom moderate income unit and one three-bedroom low income unit are proposed. The Township estimates the cost of constructing the additional units to be approximately \$350,000 and anticipates that construction will begin by 2011. Although Harding does not identify funding for the proposed units in its submitted Spending Plan, the Township adopted a resolution on December 3, 2008, that commits as follows:

“If available revenue in the Affordable Housing Trust Fund is insufficient to fund the costs associated with implementing the affordable housing programs described in the township’s third round Fair Share Plan, the Township of Harding commits to provide full funding for these programs including their administration, or to make up for any shortfall in funding, either through municipal appropriations or bonding.”

It should also be noted that the 24 affordable rental units at the The Farm at Harding were funded by Harding Township. As evidenced by The Farm at Harding, the Township has demonstrated the ability to fund and complete municipally sponsored projects. **[2 family rental units plus 2 bonuses]**

Accessory Apartment Program

Harding Township will rely on an Accessory Apartment Program to address 10 units of its projected growth share obligation. The draft “Affordable Accessory Residence Program” ordinance submitted by Harding with its petition permits new accessory apartments in the R-1 and RR zones. The conversion of an existing vacant accessory residence to an affordable accessory residence is permitted in any zoning district within the Township. Harding states that its existing housing stock is conducive to the production of the accessory apartments by virtue of its low densities, large homes, and large lots, many with detached garages or barns suitable for conversion. As evidence of this claim, the Township notes that there are approximately 30 to 50 traditional (non-affordable) accessory residences already located within the Township.

Served primarily by private wells and on-site waste disposal systems, Harding's accessory apartment ordinance requires participating property owners to verify the adequate water availability and waste disposal. To promote the program, the Harding Township Board of Health has established a "fast track" policy for approving systems serving affordable accessory residences. The proposed accessory apartment ordinance requires compliance with affirmative marketing and affordability control requirements for a period of ten years. There is no limitation on the number of bedrooms, but living space is limited to 1,200 square feet "to ensure the subordinate nature of the affordable unit as a second residence on the property." The Township intends to provide subsidies to participating homeowners in the amount of \$20,000 per unit for ten moderate-income units, plus administrative funding, for a projected total cost of approximately \$250,000. The Township will contract with an experienced consultant to administer the program, including the preparation of an operating manual and affirmative marketing plan required by COAH. A draft RFP for the administrative agent was submitted by the Township. The Township intends to enter into a contract for services within 45 days of substantive certification. On December 3, 2008, Harding adopted a resolution committing to make up for any shortfall in funding through municipal appropriations or bonding. **[10 family rental units]**

Supportive/Special Needs Housing

Harding's Fair Share Plan notes that the Township has established cooperative relationships with two providers of supportive and special needs housing, Universal Institute ("Universal") and NewBridge Services, Inc. ("NewBridge"). Both providers have expressed interest in developing additional supportive and special needs housing in Harding Township, as evidenced by letters dated June 13, 2008, and November 3, 2008, respectively. More recently in a letter dated April 24, 2009, Melody Federico, Director of Housing Development, states that "NewBridge is committed to developing at least 6 units of affordable housing that will assist the township fulfill its COAH obligations." With its letter of commitment, NewBridge provided a sample development budget and sample operating proforma, illustrating its intent to use the Special Needs Trust Fund (SNTF) as the primary funding source. NewBridge has used SNTF monies for seven

recent projects, four of which closed in 2007 and three of which will close in 2009. Thus, NewBridge is experienced with securing SNTF monies and developing similar projects. However, as noted above, should a shortfall occur, Harding has adopted a resolution committing to make up for any shortfall in funding through municipal appropriations or bonding. Harding has provided an implementation schedule indicating that site selection will occur within two years of substantive certification and placed into service within four years, or by 2013. **[6 supportive/special needs bedrooms + 1.5 rental bonuses]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
The Farm at Harding	Municipally Sponsored	2	Rental	2	4
Accessory Apartment Program	Family Rental	10	---	---	10
Newbridge	Special Needs	6	Rental	1.5	7.5
TOTALS		18		3.5	22

Growth Share Parameters

Harding Township has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁷ 9 Units

Development/Project Name	Type of Affordable Unit	# Units
The Farm at Harding	Family Rental	5
Universal Institute	Special Needs	5
Accessory Apartment Program	Family Rental	10
Newbridge	Special Needs	6
TOTAL		26

⁷ Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(35)= 8.8→9 units
N.J.A.C. 5:97-3.10(b)3

Growth Share Family Rental Requirement⁸ : 5 Units

Development/Project Name	Type of Affordable Unit	# Units
The Farm at Harding	Family Rental	5
Accessory Apartment Program	Family Rental	10
TOTAL		15

Growth Share Minimum Family Requirement⁹ : 13 Units

Development/Project Name	Type of Affordable Unit	# Units
The Farm at Harding	Family Rental	2
The Farm at Harding	Family Rental	3
Accessory Apartment Program	Family Rental	10
TOTAL		15

Very Low Income Minimum Requirement¹⁰ : 4 Units

Development/Project Name	Type of Affordable Unit	# Units
Newbridge	Special Needs	6
The Farm at Harding	Family Rental	2
TOTAL		8

⁸ Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(9)= 4.5 → 5units N.J.A.C. 5:97-3.4(b)

⁹ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(26)= 13 units N.J.A.C. 5:97-3.9

¹⁰ Growth Share Very Low Income Requirement: .13(net growth share-pre-7/17/08 credits within municipality addressing growth share = .13(35-8) or .13(27)= 3.5→4 units pursuant to P.L.2008, c.46

Age-Restricted Maximum¹¹ : 8 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	---	---
TOTAL		---

Bonus Maximum¹² : 8 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
The Farm at Harding	Family Rental	5
Newbridge	Special Needs	1.5
Universal Institute	Special Needs	1.25
TOTAL		7.75

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Harding Township has issued certificates of occupancy for 104 housing units and also for the nonresidential square footage equivalent of 144 jobs, yielding an actual growth share obligation through

¹¹ Projected Growth Share Age Restricted Maximum: $.25(\text{Projected Growth Share-Transferred or Proposed RCA units addressing the Growth Share Obligation})$ or $.25(35-2)=8.25$ units N.J.A.C. 5:97-3.10(c)2

¹² Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(35)=8.75 \rightarrow 8$ units N.J.A.C. 5:97-3.20(b)

September 30, 2008, of 30 affordable units.¹³

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 0 Units

Program Name	# Units
N/A	---
TOTAL	---

PRIOR ROUND SUMMARY

Prior Round Obligation: 83 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	The Farm at Harding	21	Rental	21	42
	RCA with City of Orange Township	41	N/A	---	41
Subtotal		62		21	83
TOTAL					83

¹³ The number of residential COs (104) is initially divided by 5 to yield 20.8 units and the number of jobs (144) is initially divided by 16 to yield 9 units. Harding Township's total actual growth share is therefore 29.8 or 30 units (20.8 + 9). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4 therefore, the actual growth share may vary.

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 35 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Universal Institute	5	Rental	1.25	6.25
	The Farm at Harding	3	Rental	3	6
	RCA with City of Orange Township	2	---	---	2
Subtotal		10		4.25	14
Proposed Mechanisms	The Farm at Harding	2	Rental	2	4
	Accessory Apartment	10	---	---	10
	Newbridge	6	Rental	1.5	7.5
Subtotal		18		3.5	22
TOTAL					36
Surplus					+1

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Harding Township submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance will be reviewed by COAH in a separate report.

B. Third Round Spending Plan

Harding Township's prior round spending plan was approved by COAH on July 7, 2008. A revised third round spending plan was submitted by Harding Township with the municipality's third round petition for COAH's review and approval. The Township is seeking a waiver N.J.A.C. 5:97-8.8, which requires that at least 30% of all development fees collected and interest earned shall be used to provide affordability

assistance to low- and moderate-income households in affordable units included in the municipality's Fair Share Plan. The Township's spending plan allocates all collected and anticipated developments fees towards servicing the bond debt associated with the 24 affordable rental units in the Farm at Harding. The spending plan and the waiver request will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Harding Township has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the municipality on May 21, 2008.

Harding Township is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the municipality and must identify an experienced administrative entity for that purpose by contract, agreement or letter. The Farm at Harding has been and continues to be administered by Phillip VanKirk of Affordable Harding Corporation. Harding Township has submitted a draft Request for Proposals (RFP) for the implementation and administration of its proposed accessory apartment program. The RFP indicates that the administrative agent must prepare an operating manual for the accessory apartment program consistent with COAH's rules. This operating manual must be submitted to COAH within 45 days of substantive certification.

D. Affirmative Marketing Plan

Harding Township must provide an affirmative marketing plan that comports with

the requirements of the UHAC and ensures the units in the municipality's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. As noted above, Harding Township has submitted a draft RFP regarding its accessory apartment program. The RFP requires the administrative agent to develop an affirmative marketing plan consistent with COAH's rules. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the municipality within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. MONITORING

Harding Township must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Harding Township's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the Harding Township and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Harding Township and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the Harding Township to amend its plan to address the shortfall.

V. COMMENTS

During the 45-day comment/objection period, a comment dated March 26, 2009, was received from Fair Share Housing Center (FSHC). FSHC acknowledges that Harding provides a plan for meeting 50 percent of its very-low income requirement with

family units but takes issue with the Township's position that it doesn't have to provide 50 percent of its very-low income requirement with family units since this is not required pursuant to COAH's rules. In addition, FSHC points out that Harding's request for a waiver to provide affordability assistance may be unnecessary since the Township is subsidizing the creation of deed restricted very-low income units.

VI. RECOMMENDATION

COAH staff recommends that Harding Township be granted third round substantive certification. Harding Township must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Also within 45 days of the grant of substantive certification, the Township must enter into a contract with an administrative agent for the accessory apartment program and submit to COAH an operating manual and affirmative marketing plan for the accessory apartment program in accordance with N.J.A.C. 5:80-26.14(b).

RESOLUTION GRANTING WAIVER FROM N.J.A.C. 5:97-8.8
30% AFFORDABILITY ASSISTANCE REQUIREMENT

Harding Township, Morris County

WHEREAS, Harding Township (“Harding” or “the Township”), Morris County, received second round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (COAH) on November 6, 1996, and was granted extended certification on February 9, 2005; and

WHEREAS, the Township received approval of a development fee ordinance from COAH on May 4, 2005, and subsequently amended its development fee ordinance to increase fee percentages as permitted under COAH’s regulations at the time; and

WHEREAS, on June 8, 2006, the Township received approval for another amendment to its development fee ordinance; and

WHEREAS, Harding petitioned COAH for third round substantive certification on December 30, 2008; and

WHEREAS, as part of its third round petition, Harding Township requested a waiver from N.J.A.C. 5:97-8.8, which requires that at least 30 percent of development fees shall be used to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income); and

WHEREAS, Harding Township addressed its prior round obligation through a 43-unit Regional Contribution Agreement (RCA) with the City of Orange Township and a 24-unit 100% affordable municipally sponsored project, The Farm at Harding (“The Farm”); and

WHEREAS, the municipality expended \$860,000 for the RCA and \$2,000,000 for the pre-development of the municipally sponsored project which included soft costs such as: land acquisition, professional services, permits and approvals; and

WHEREAS, the Township financed all of these pre-development planning expenses from general appropriations; and

WHEREAS, Affordable Harding Corporation (AHC), a New Jersey nonprofit corporation, was established to construct the 100% affordable municipally sponsored project, and Harding provided a repayment guarantee for the construction loan obtained by AHC; and

WHEREAS, Harding financed the repayment of the construction loan through the sale of 20-year bonds; and

WHEREAS, the Township reports the total amount owed (principal and interest) on the Farm at Harding Project is approximately \$5,500,000; and

WHEREAS, Harding Township proposes to address 35 units of the projected growth share obligation with 10 units of credit, 2 units for a municipally sponsored project, a 10-unit accessory apartment program, a 6-bedroom proposed group home, 5 family rental bonuses and 2.75 special needs rental bonuses; and

WHEREAS, The Township is constructing two additional units at *The Farm* to address a portion of its third round obligation at a cost of \$350,000 and establishing a 10-unit accessory apartment program at a cost of \$200,000 (cost without administration); and

WHEREAS, the cost associated with the Farm at Harding and the mechanisms provided in the Township's plan addressing growth share is approximately \$6,000,000; and

WHEREAS, the Township of Harding projects collecting \$3,764,218.68 in development fee revenue and interest; and

WHEREAS, based on projected revenue, the 30% affordability assistance requirement would represent approximately \$1,064,425 plus interest, which the municipality would like to expend to pay for debt service on the bonds for the Farm at Harding; and

WHEREAS, Harding's waiver request was considered by a COAH Task Force on April 29, 2009; and

WHEREAS, the Task Force recommended that Harding's waiver request be granted, finding that the Township met the waiver requirement of N.J.A.C. 5:96-15.2 by demonstrating that strict application of N.J.A.C. 5:97-8.8 would create an unnecessary financial, environmental or other hardship for the Township (Exhibit A).

NOW THEREFORE BE IT RESOLVED that Harding Township has demonstrated that if the waiver is not granted, it would cause an unnecessary financial hardship; and

BE IT FURTHER RESOLVED that the recommendation is consistent with COAH's previous approval that permitted the allocation of all development fee revenue toward the cost associated with The Farm at Harding; and

BE IT FURTHER RESOLVED that the Council hereby grants a waiver to Harding Township from N.J.A.C 5:97-8.8 (30% affordability assistance requirement).

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on May 14, 2009

A handwritten signature in cursive script, reading "Renee Reiss". The signature is written in black ink and is positioned above the printed name and title.

Renee Reiss, Secretary
Council on Affordable Housing